

**RULES
OF
THE TENNESSEE DEPARTMENT OF TREASURY
BANK COLLATERAL POOL BOARD**

**CHAPTER 1700-4-1
BANK COLLATERAL POOL**

TABLE OF CONTENTS

1700-4-1-.01	In General	1700-4-1-.08	Reports and Procedures for Trustee Custodians
1700-4-1-.02	Board Membership and Operations	1700-4-1-.09	Fees
1700-4-1-.03	Admission to Collateral Pool	1700-4-1-.10	Withdrawal from Collateral Pool Participation
1700-4-1-.04	Determination of Collateral Pledge Level	1700-4-1-.11	Reports by Public Depositors
1700-4-1-.05	Enforcement Actions - Cease and Desist Orders	1700-4-1-.12	Payment of Losses
1700-4-1-.06	Suspension from Pool	1700-4-1-.13	Appeal of Decisions
1700-4-1-.07	Reporting by Qualified Public Depository		

1700-4-1-.01 IN GENERAL.

- (1) Purpose. T.C.A., Title 9, Chapter 4, Part 5 enacted the Collateral Pool for Public Deposits Act of 1990. The Act creates a Collateral Pool as an alternative means for securing public deposits. The purpose of these rules is to establish requirements for admission, participation, and administration of the Collateral Pool as required by and consistent with the Act.
- (2) Definitions. For the purpose of these rules:
 - (a) Average daily balance means the sum of the average daily demand deposits, the average daily time deposits, and the average daily savings deposits of public depositors held during the calendar month immediately preceding the current month less any applicable Federal Deposit Insurance.
 - (b) Average daily demand deposit means the total by account of all public funds held on a daily basis in demand deposit accounts during the calendar month immediately preceding the current month divided by the number of calendar days in the month. Demand deposit account shall have the meaning as defined by the Board of Governors of the Federal Reserve System, Regulation D, 12 CFR 204, as amended.
 - (c) Average daily time deposit means either:
 1. The total by account of all public funds held on a daily basis in time deposit accounts during the calendar month immediately preceding the current month divided by the number of calendar days in the month; or
 2. The higher of (i) the actual amount of public funds in time deposit accounts on the last day of the calendar month immediately preceding the current month; or (ii) the sum of the amount of public funds in time deposit accounts on the last day of the two (2) calendar months immediately preceding the current month divided by two (2). Time deposit accounts shall have the meaning as defined by the Board of Governors of the Federal Reserve System, Regulation D, 12 CFR 204, as amended.
 - (d) Average daily savings deposit means either:
 1. The total by account of all public funds held on a daily basis in savings deposit accounts during the calendar month immediately preceding the current month divided by the number of calendar days in the month; or

(Rule 1700-4-1-.01, continued)

2. The sum of the amount of public funds in savings deposit accounts on the last day of the two (2) calendar months immediately preceding the current month divided by two (2). Savings deposit account shall have the meaning as defined by the Board of Governors of the Federal Reserve System, Regulation D, 12 CFR 204, as amended.
- (e) Federal Deposit Insurance means the sum of the insurance provided by the Federal Deposit Insurance Act on all accounts of public depositors at the qualified public depository; such insurance for public depositors shall be determined in accordance with FDIC Regulations, 12 CFR 330.14, as amended.
- (f) Person qualified to conduct audits means a person who is certified or licensed to practice public accountancy. Such person may be an employee of the qualified public depository.

Authority: T.C.A. §9-4-508. **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992. Amendment filed August 30, 1996; effective December 27, 1996.

1700-4-1-.02 BOARD MEMBERSHIP AND OPERATIONS.

(1) Board Membership.

- (a) Generally. The Board shall be comprised of seven (7) members as follows: The Commissioner of Financial Institutions and the State Treasurer who serve as Ex-Officio members; one (1) representative of local government; and four (4) representatives of the banking industry. All seven (7) members shall be voting members of the Board.
- (b) Local Government Representative. The security for public deposits task force shall elect a local government representative from among the four (4) eligible local government members of the task force to serve on the Collateral Pool Board. The appointment of the local government representative shall become effective at the time of election by the task force and initially shall be for a term of one (1) year. After the initial term, the local government representative shall serve a term of two (2) years unless completing the unexpired term of a former member. Provided, however, the representative shall serve on the Board until his successor is elected.
- (c) Banking Industry Representatives. The State Treasurer shall appoint four (4) members to the Board from a list of two (2) nominees for each member position submitted by the Board of Directors of the Tennessee Bankers Association. Appointment of these members shall be effective at the time the Secretary of the Board is notified by the State Treasurer of such appointment. The Tennessee Bankers Association shall designate the initial terms of the members as one (1) year or two (2) year terms. The initial banking industry representatives shall serve the term designated by the Tennessee Bankers Association. All subsequent banking industry representatives shall serve two (2) year terms unless completing the unexpired term of a member due to a vacancy. Provided, however, a banking industry representative shall continue to serve until his successor is appointed.

(2) Meetings.

- (a) How Called. The Board shall meet at the call of the Chairman or upon written request to the Chairman by four (4) members of the Board. Unless circumstances prevent, the Secretary shall notify members of the date, time and location of each meeting at least five (5) calendar days prior to the date of the meeting. Notice of the Board meetings shall be posted in locations in the State Capitol complex at least forty-eight (48) hours prior to any Board meeting by the Board Secretary. The Board may meet by telephone conference call upon a determination by the Board that the matters to be considered at that meeting require timely action by the Board, that physical presence by a quorum of the members is not practical within the period of time requiring action, and that participation by a quorum of the members by telephone is, therefore,

(Rule 1700-4-1-.02, continued)

necessary. Such determination, and a recitation of the facts and circumstances on which it is based, must be included in the minutes of the meeting and filed with the Office of the Secretary of State as prescribed in T.C.A. § 8-44-108. Unless circumstances prevent, the Secretary to the Board shall notify members of the date, time and location of any telephone conference meeting at least two (2) hours prior to the time of the telephone conference call. Notice of any meeting by telephone conference call shall be posted in locations in the State Capitol complex at least two (2) hours prior to any such meeting and shall state that the meeting will be conducted with some members participating by telephone. Any meeting held by telephonic means must comply with the provisions of T.C.A. § 8-44-108. Any member of the Board participating in a meeting by telephone shall be deemed present in person at the meeting for purposes of quorum requirements and voting, but not for purposes of determining per diem eligibility.

- (b) **Quorum.** A quorum of the Board shall consist of four (4) members of the Board. Notwithstanding the presence of a quorum, where these rules require certain actions to be taken by a specified number of votes, the action may not be taken unless the requisite number of votes is cast.
 - (c) **Presiding Officer.** The Chairman shall preside at all meetings of the Board. In the Chairman's absence, the Vice-Chairman shall preside.
 - (d) **Executive Session.** In the event that information deemed confidential pursuant to T.C.A. § 9-4-518(e) is to be discussed by the Board, the Board shall meet in executive session pursuant to T.C.A. § 9-4-518(f). The presiding officer shall announce to those in attendance that the Board, due to the confidential nature of material to be discussed, will meet in executive session which is closed to the public. The presiding officer shall set and announce a time specific at which point the meeting will again be opened for public attendance. The Board shall not take any official action during executive sessions. Minutes of executive sessions shall be maintained in such a manner as to not disclose the nature of confidential information discussed.
- (3) **Records.**
- (a) **Where Maintained.** All records of the Board shall be maintained by the State Treasurer in accordance with the requirements of applicable state law and rules and regulations pertaining to the receipt and maintenance of public records.
 - (b) **Confidential Records.** Records submitted from any source which are confidential in nature as provided in T.C.A. § 9-4-518(e) shall be maintained by the State Treasurer in such a manner as to protect the confidentiality of those records and to prevent the unauthorized dissemination of such information.
 - (c) **Access to Records.** Persons requesting access to the records of the Board shall submit their request to the State Treasurer who, upon determining that such records are not confidential in nature, shall permit the inspection of such records in accordance with applicable law, rules and regulations.
- (4) **General Delegation to Treasurer.** The Board, upon the affirmative vote of seven (7) members, may delegate such of its duties to the State Treasurer as the Board deems appropriate. In exercising such delegations, the State Treasurer shall be authorized to exercise such powers as are vested in the Board which are necessary to fulfill the delegated duties and responsibilities, and may assign any such duties and responsibilities to his staff as he deems necessary and proper.
- (5) **Votes Required for Board Action.**
- (a) **Admission.** Pursuant to T.C.A. § 9-4-503(b), no bank nor savings institution shall be admitted for participation in the Collateral Pool unless it receives six (6) affirmative votes of the Board.

(Rule 1700-4-1-.02, continued)

- (b) Increase Collateral Pledge Level. The collateral pledge level of a qualified public depository may be increased upon four (4) affirmative votes of the Board.
 - (c) Suspension from Collateral Pool. A qualified public depository may be suspended from participation in the collateral pool upon four (4) affirmative votes of the Board.
 - (d) Mandatory Withdrawal. Pursuant to T.C.A. § 9-4-517(a), a qualified public depository shall be required to withdraw upon a majority vote of the Board. For purposes of this rule, a majority vote shall mean an affirmative vote of four (4) members of the Board.
 - (e) Rating Criteria and Benchmark Levels. The Board, upon the affirmative vote of four (4) members, shall set the initial rating criteria and benchmark levels as provided in rule 1700-4-1-.03(2)(b) and (c). Any subsequent revision to the rating criteria or benchmark levels may be accomplished by a majority vote of the Board, unless such revision causes the criteria or levels to be less stringent upon applicants. Any subsequent revision to the rating criteria or benchmark levels which causes the criteria or levels to be less stringent upon applicants shall require six (6) affirmative votes of the Board.
 - (f) Majority Vote for Other Actions. Any action of the Board, other than that requiring a specific affirmative vote, may be accomplished by a majority vote. For purposes of this rule, a majority shall mean the affirmative vote of four (4) members of the Board.
- (6) Board Officers.
- (a) Selection. Officers shall be elected by majority vote of the Board. The election of officers shall occur at the first Board meeting held after June 30 of each year.
 - (b) Term. Officers shall serve a one (1) year term to expire upon election of a successor by the Board.
 - (c) Chairman. The Chairman shall preside at meetings of the Board and, together with the Board Secretary, set the agenda for each meeting. The Chairman shall have other duties and powers as may be assigned by the Board by majority vote.
 - (d) Vice-Chairman. The Vice-Chairman shall preside at meetings in the absence of the Chairman. The Vice-Chairman shall exercise such other duties as may be assigned by majority vote of the Board.
 - (e) Secretary. The Secretary shall keep an accurate record of the proceedings and actions of the Board. Together with the Chairman, the Secretary shall set the agenda for each meeting, notify Board members and the public of meetings and distribute appropriate materials to Board members. The Secretary shall also maintain information on the appointment of members to the Board and their term of office.
- (7) Miscellaneous.
- (a) Attachment to Treasury Department. The Board, for administrative purposes, is attached to the Tennessee Treasury Department pursuant to T.C.A. § 9-4-506(e).
 - (b) Vacancies. Should any appointed member of the Board become unable to continue to serve on the Board for whatever reason, the member or his representative shall notify the Board of such inability to serve by submitting a letter of resignation to the Secretary. The Secretary shall notify the appropriate appointing Authority of the resignation and request that another representative be appointed to serve the remainder of the member's term.

(Rule 1700-4-1-.02, continued)

Authority: T.C.A. §§9-4-503, 9-4-506, 9-4-508, and 9-4-521(c). **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992. Amendment filed January 30, 1995; effective May 31, 1995. Amendment filed August 30, 1996; effective December 27, 1996. Amendment filed October 29, 1999; effective February 28, 2000.

1700-4-1-.03 ADMISSION TO COLLATERAL POOL.

(1) Application by Public Depository.

- (a) Applications for Participation. To be considered for admission to the collateral pool, a Tennessee bank, as defined in T.C.A. § 45-12-102, or a Tennessee savings institution, as defined below, shall submit a completed Application Package to the Board. The Application Package shall include a completed application form and required supplemental information and documents. For purposes of these rules, a “Tennessee savings institution” means any savings association as defined in 12 U.S.C. § 1813 and which has branches located in the State of Tennessee authorized to accept federally insured deposits.
- (b) Application Form. The State Treasurer shall prescribe an appropriate form which solicits from applicants the following information:
 - 1. the legal name of the financial institution;
 - 2. the address of principal offices of the institution;
 - 3. the institution’s transit routing number;
 - 4. the institution’s FDIC insurance certificate number;
 - 5. the institution’s tax identification number;
 - 6. the date the institution was chartered;
 - 7. the date the institution commenced operations in Tennessee;
 - 8. a list of the applicants three (3) senior officers, including a resume of their experience and qualifications;
 - 9. a list of public depositors by account held by the applicant at the end of the preceding calendar year;
 - 10. for the twelve (12) months preceding the date of application, the average monthly balance of public deposits held for each month;
 - 11. the legal name and address of the principal offices of all trustee custodians proposed to safekeep eligible collateral pledged to the pool;
 - 12. the institution and institution’s holding company (if any) debt ratings from two (2) recognized rating agencies (if available); and
 - 13. for the eight (8) quarters immediately preceding the date of application, a schedule of financial information, as determined by the Board, to be taken from the institution’s Report of Condition to the FDIC or from the institution’s Thrift Financial Report to the OTS (collectively referred to as call report).

(Rule 1700-4-1-.03, continued)

- (c) Supplemental Information and Documents Required. The Application Package shall include the following executed documents:
 - 1. copies of the Depository Pledge Agreement; and
 - 2. copies of the Contingent Liability Agreement.
 - (d) Completion of Application Form. The application form shall be executed by the president or chief executive officer of the applicant and the individual responsible for preparing the application and contain all the prescribed information to be considered complete. The applicant may withdraw the application at any time prior to the Board taking final action on the application.
- (2) Admission Criteria.
- (a) Admission Criteria Generally. To be admitted to the collateral pool, each applicant must meet or exceed standards established by the Board in the areas of rating criteria, and in an evaluation of financial standards.
 - (b) Rating Criteria. Any applicant requesting participation in the collateral pool must have a rating equal to or greater than a certain rate as shall be set by the Board from time to time. The rating of an applicant shall be determined from the most recent quarterly report published by Sheshunoff Information Services, Inc. (Organization rating) prior to application. Provided, however, the Board may admit an applicant with a rating of less than the rate set by the Board if it is determined that the applicant is otherwise financially sound.
 - (c) Evaluation of Financial Standards. The Board may consider any one, all, or any combination of the following guidelines for evaluating financial standards. The guidelines include, but are not limited to, benchmark levels as shall be determined by the Board from time to time calculated by the following ratios taken from the schedule submitted by the applicant pursuant to rule 1700-4-1-.03(1)(b)13:
 - 1. Capital Adequacy Ratios:
 - (i) Primary Capital to Assets

$$\frac{\text{Total Equity Capital}}{\text{Total Assets}}$$
 - (ii) Total Capital to Assets

$$\frac{\begin{array}{l} \text{Subordinated Notes \& Debentures} \\ \text{Limited Life Preferred Stock} \\ \text{Total Equity Capital} \end{array}}{\text{Total Assets}}$$
 - (iii) (I) For banks, Regulatory (Tier 1) Capital

Calculated in accordance with 12 CFR Part 225, Appendix A; 12 CFR Part 208, Appendix A; or 12 CFR Part 325, Appendix A, as applicable to the applicant based upon Federal Regulations.
 - (II) For savings institutions, Core (Tier I) Capital

(Rule 1700-4-1-.03, continued)

Calculated in accordance with 12 CFR Part 567.5(a), as applicable to the applicant based upon Federal Regulations.

- (iv) (I) For banks, Regulatory (Tier II) Capital

Calculated in accordance with 12 CFR Part 225, Appendix A; 12 CFR Part 208, Appendix A; or 12 CFR Part 352, Appendix A, as applicable to the applicant based upon Federal Regulations.

- (II) For savings institutions, Supplemental (Tier II) Capital

Calculated in accordance with 12 CFR Part 567(b), as applicable to the applicant based upon Federal Regulations.

Savings institutions must pass the three (3) risk-based capital requirements set forth in 12 CFR 567.2(a)(1).

2. Asset Quality Ratios:

- (i) Loan Loss Allowance to Non-Performing Loans

$$\frac{\text{Allowance for Loan Losses}}{\text{Total Loans Past Due 90 Days} + \text{Total Non-Accrual Loans}}$$

- (ii) Loans 90 Plus Days to Total Loans

$$\frac{\text{Total Non-Accrual Assets} + \text{Total Loans Past Due 90 Days}}{\text{Total Loans}}$$

- (iii) Non-Performing Assets to Total Assets

$$\frac{\text{Total Loans Past Due 90 Days} + \text{Total Non-Accrual Loans} + \text{Other Real Estate Owned}}{\text{Total Assets}}$$

3. Earnings Ratio:

$$\frac{\text{Return on Average Assets (Annualized)}}{\text{Net Income (Annualized)}} \div \text{Average Assets}$$

4. Liquidity Ratio:

Loans to Total Assets

$$\frac{\text{Total Loans}}{\text{Total Assets}}$$

The Board may consider such other financial information as it deems necessary or appropriate.

- (d) Evaluation of Other Factors. The Board may further consider such other information bearing on the applicant's appropriateness for participation in the pool as in the opinion of the Board may

(Rule 1700-4-1-.03, continued)

be relevant including, but not limited to, the applicant's mode of conducting and managing its affairs, the action of its directors, the investment of the applicant's funds, the safety and prudence of the applicant's management, and any administrative proceeding or court action initiated against the applicant.

(3) Consideration of Application.

- (a) Consideration by the State Treasurer. Upon receipt of an Application Package, the State Treasurer shall review the contents of the Application Package to ensure completeness. In the event that an Application package is found to be incomplete, the State Treasurer shall notify the applicant of the deficiency and provide the applicant with sixty (60) calendar days in which to cure the deficiency. If the deficiency is not cured within this time, the State Treasurer shall return the Application Package to the applicant. Upon determining that an Application Package is complete, the State Treasurer shall notify the Chairman that applications are ready for consideration by the Board.
- (b) Consideration by the Board. The Board shall consider each completed application submitted by an applicant for participation in the collateral pool. The Board, upon majority vote, may delay action upon any application until the next succeeding meeting of the Board. Provided, however, the Board may not delay action on any application more than one (1) time. An applicant receiving the requisite number of votes for admission shall be admitted to the pool.
- (c) Notice to Applicant. The Secretary of the Board shall notify an applicant in writing of any action taken by the Board or by the Treasurer within ten (10) calendar days of such action.

(4) Appeal of Admission Determination. Any applicant denied admission to the collateral pool may make a written request for reconsideration to the Board by following the appeal procedure in rule 1700-4-1-.13.

Authority: T.C.A. §§9-4-503 and 9-4-508. **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992. Amendment filed January 30, 1995; effective May 31, 1995. Amendment filed August 30, 1996; effective December 27, 1996.

1700-4-1-.04 DETERMINATION OF COLLATERAL PLEDGE LEVEL.

- (1) Collateral Pledge Level. A qualified public depository shall pledge eligible collateral having a market value not less than the greater of the average daily balance or average monthly balance of public deposits held by the qualified public depository multiplied by the qualified public depository's collateral pledging level. The collateral pledging level for all qualified public depositories shall be calculated quarterly according to the following schedule:
 - (a) If the qualified public depositories hold an aggregate of less than thirty percent (30%) of the sum total of deposits held in the State of Tennessee by banks and savings institutions, the collateral pledging level shall equal two hundred percent (200%).
 - (b) If the qualified public depositories hold an aggregate of thirty percent (30%) or more of the total sum of deposits held in the State of Tennessee by banks and savings institutions, the collateral pledging level shall equal one hundred fifteen percent (115%), except as provided in parts 1 through 3 of this subparagraph below:
 - 1. The collateral pledging level shall equal one hundred percent (100%) for any qualified public depository which has a rating equal to or greater than twenty-five (25) as determined from the most recent quarterly report published by Sheshunoff Information Services, Inc. (Organization rating), and meets the benchmark levels established pursuant

(Rule 1700-4-1-.04, continued)

to part 4 of this subparagraph below for at least seven (7) of the nine (9) ratios set forth in rule 1700-4-1-.03(2)(c);

2. The collateral pledging level for a qualified public depository shall equal ninety percent (90%) if: (i) the long-term debt of both the qualified public depository and the depository's holding company (if any) are included in the three (3) highest ratings given by Moody's Investors Service, Inc. or by Standard and Poor's Corporation (excluding any modifiers); (ii) the qualified public depository meets the benchmark levels established pursuant to part 4 of this subparagraph below for all four (4) of the Capital Adequacy Ratios set forth in rule 1700-4-1-.03(2)(c)1; and (iii) the qualified public depository does not fail during any two (2) consecutive quarters the benchmark levels established pursuant to part 4 of this subparagraph below for any two (2) of the non-Capital Adequacy Ratios set forth in rules 1700-4-1-.03(2)(c)2 through 1700-4-1-.03(2)(c)4.
 - (I) If a long-term debt rating does not exist for both the qualified public depository and the depository's holding company, the qualified public depository may nevertheless have a collateral pledging level equal to ninety percent (90%) provided the rating which is in existence meets the requirements in subpart 2(i) of this subparagraph above and provided the qualified public depository meets the other requirements contained in subparts 2(ii) and 2(iii) above.
 - (II) If a long-term debt rating has been given by both Moody's Investors Service, Inc. and by Standard and Poor's Corporation to either the qualified public depository or to the depository's holding company, then both ratings must be included in the three (3) highest grades (excluding any modifiers) in order for the qualified public depository to meet the requirements in subpart 2(i) of this subparagraph above.
3. The collateral pledging level for a qualified public depository shall equal ninety percent (90%) if: (i) a long-term debt rating does not exist for either the qualified public depository or the depository's holding company and the qualified public depository has a rating equal to or greater than forty (40) as determined from the most recent quarterly report published by Sheshunoff Information Services, Inc. (Organization rating); (ii) the qualified public depository meets the benchmark levels established pursuant to part 4 of this subparagraph below for all four (4) of the Capital Adequacy Ratios set forth in rule 1700-4-1-.03(2)(c)1; and (iii) the qualified public depository does not fail during any two (2) consecutive quarters the benchmark levels established pursuant to part 4 of this subparagraph below for any two (2) of the non-Capital Adequacy Ratios set forth in rules 1700-4-1-.03(2)(c)2 through 1700-4-1-.03(2)(c)4.
4. The Board shall determine from time to time the benchmark levels referred to in parts 1 through 3 of this subparagraph above. Such benchmarks may differ from the benchmark levels established by the Board for evaluating collateral pool admission pursuant to rule 1700-4-1-.03(2)(c). The financial information necessary in determining whether the benchmark levels have been met by a qualified public depository for a given quarter shall be taken from the quarterly report submitted pursuant to rule 1700-4-1-.07(2), or, if the quarterly report requirement is suspended, from the source described in rule 1700-4-1-.07(2)(c).
 - (2) Minimum Pledged Collateral. Notwithstanding the average daily balance or average monthly balance, a qualified public depository shall maintain a minimum of pledged eligible collateral whose market value is not less than one hundred thousand dollars (\$100,000).
 - (3) Limitations.

(Rule 1700-4-1-.04, continued)

- (a) Excess of Capital. For any deposits that a qualified public depository holds in excess of its capital, surplus, and undivided profits, the Board may require the qualified public depository to pledge eligible collateral at a higher pledge level.
 - (b) Ten Percent (10%) of Pool. The Board may require a qualified public depository which holds public deposits which exceed ten percent (10%) of the collateral pool to pledge eligible collateral against such deposits at a higher collateral pledge level.
 - (c) New Institutions. The Board may required a qualified public depository which has been operating less than three (3) years to pledge eligible collateral at a higher pledge level.
- (4) Temporary Increases in Collateral. A qualified public depository which accepts any public deposit that causes its public deposits to exceed the greater of its average daily balance, or average monthly balance by twenty-five percent (25%) shall be required to pledge additional eligible collateral with the Treasurer within two (2) business days of the deposit. The additional eligible collateral shall be equal to the difference between the actual public deposits and the greater of the average daily balance or average monthly balance times the applicable collateral pledge level, including any limitations thereto. The additional eligible collateral shall not be required if deposit(s) causing the increase are withdrawn within the two (2) business days and prior to pledging of the additional collateral. Additional pledged collateral shall be included in required collateral and held by the Treasurer until the next regular monthly report is filed.

Authority: T.C.A. §§9-4-504, 9-4-508(7), 9-4-508(1)(D), and 9-4-508(7). **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992. Amendment filed August 30, 1996; effective December 27, 1996. Amendment filed October 29, 1999; effective February 28, 2000. Amendment filed May 31, 2000; effective September 28, 2000. Amendment filed October 30, 2001; effective February 28, 2002.

1700-4-1-.05 ENFORCEMENT ACTIONS - CEASE AND DESIST ORDERS.

- (1) Cease and Desist Orders. If the Board has reason to believe that any qualified public depository or other financial institution subject to the regulatory Authority of the Board is or has been violating any of the provisions of the Act or of these rules including, but not limited to, any action that would constitute a default under the Act, or any failure to meet the criteria set forth in rule 1700-4-1-.03(2), or any failure to file any required report or perform any required action, the Board may issue to the qualified public depository or other financial institution that is subject to the Authority of the Board an order to cease and desist from the violation or to correct the condition giving rise to or resulting from the violation.
- (2) Notice to Qualified Public Depository. The qualified public depository shall be notified within five (5) business days of the cease and desist order. The cease and desist order shall specify the violation, the effective date of the cease and desist order, and the terms and conditions of such cease and desist order.
- (3) Effect of Cease and Desist Order. A cease and desist order may contain any terms and conditions the Board may deem necessary or appropriate to remedy any violation of law or these rules. Such terms and conditions may include, but shall not be limited to, enhanced reporting requirements or pledging of additional collateral.
- (4) Appeal. A qualified public depository which is issued a cease and desist order may appeal the decision by following the appeal procedure in rule 1700-4-1-.13.

Authority: T.C.A. §9-4-508. **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992.

1700-4-1-.06 SUSPENSION FROM POOL.

- (1) Notice of Suspension to Qualified Public Depository. The Board may suspend or disqualify any qualified public depository for a violation of any order issued pursuant to these rules or for violation of any of the provision of the Act or these rules. The qualified public depository shall be notified of the effective date of the suspension, the length of the suspension and such terms or conditions of the suspension that the Board may prescribe within ten (10) business days of the action by the Board.
- (2) Notice of Suspension to Public Depositors. The qualified public depository shall furnish the Treasurer, in a form prescribed by him, a current listing of all public depositors within five (5) business days of the receipt of a notice of suspension. The Treasurer shall notify each public depositor appearing on the listing submitted by the qualified public depository of the effective date, duration and terms of suspension of any qualified public depository. In addition, if the suspension is for longer than sixty (60) calendar days, the Treasurer shall publish the notice of suspension in the Tennessee Administrative Register.
- (3) Effect of Suspension. A qualified public depository which is suspended from participation in the pool shall be prohibited from opening additional demand deposit accounts, accepting any savings deposits or time deposits which would be secured by the pool or from renewing any time deposits which are secured by the pool. The qualified public depository shall continue to file all required reports and shall continue to collateralize all existing time deposits, savings deposits and demand deposits secured by the pool.
- (4) Appeal. A qualified public depository which is suspended may appeal the decision by following the appeal procedure in rule 1700-4-1-.13.

Authority: T.C.A. §9-4-508. **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992.

1700-4-1-.07 REPORTING BY QUALIFIED PUBLIC DEPOSITORY.

- (1) Monthly Reports.
 - (a) Report Contents. A qualified public depository shall submit a monthly report to the Treasurer containing information required by the Board and prescribed by the Treasurer. The report shall include, but shall not be limited to, the following: average daily balance of all demand deposits; the average daily balance of all time deposits and the average daily balance of all savings deposits held by it during the month; the average monthly balance of all public deposits held for the previous twelve (12) calendar months; a detailed schedule of all securities pledged as collateral; a statement of selected financial information; and such other information requested on the form.
 - (b) When Due. The monthly report shall be delivered to the Treasurer not later than the fifteenth (15th) day after the end of each calendar month, or when requested by the Treasurer, and shall contain the applicable information for the preceding calendar month. The report shall be submitted under oath, and signed by the president or other duly authorized officer of the institution, and by the individual who prepared the report.
 - (c) Supplemental Report. At any time, the Board or the Treasurer may, in writing, request any information which would be included in the monthly report. The qualified public depository shall provide the supplemental report to the Treasurer within five (5) business days of receipt of the request.
 - (d) Amended Reports. At any time that a qualified public depository determines that any information contained on a monthly report is inaccurate or incomplete, the qualified public depository shall file an amended report with the Treasurer not later than ten (10) business days after the determination is made.

(Rule 1700-4-1-.07, continued)

(2) Quarterly Reports.

- (a) Report Contents. Every qualified public depository shall file with the Treasurer on a quarterly basis a statement of selected financial information from the quarterly call report required by the Federal Deposit Insurance Act, 12 USC Section 1817 et seq. The report shall be filed at the same time the quarterly call report is filed with the FDIC or the OTS, whichever is applicable, but not later than the date that the report is due to be filed with such entity. Every savings institution shall accompany its report to the Treasurer with a copy of the CCR report section of the institution's call report.
- (b) Amended Reports. Every qualified public depository shall file with the Treasurer an amended report at any time the selected financial information on the amended quarterly call report is amended. Such amended report shall be filed at the same time it is filed with the FDIC or the OTS, whichever is applicable.
- (c) Notwithstanding subparagraphs (2)(a) and (2)(b) above, the Treasurer may by written notice to all qualified public depositories suspend the requirement of filing the quarterly reports described in this rule. If the Treasurer suspends such requirement, the selected financial information otherwise required in the quarterly reports shall be obtained by the Treasurer from such other source as the Treasurer deems reliable.

(3) Annual Reports.

- (a) Annual Reports Generally. Every qualified public depository shall file an annual report with the Treasurer. The annual report shall be filed on a form approved by the Board and shall contain a statement of all public deposits held for the credit of all public depositors at the close of business on the last business day in the calendar year. The statement shall be prepared by a person qualified to conduct audits. The annual report shall contain such other information approved by the Board on a form prescribed by the Treasurer.
- (b) When Due. The annual report shall be filed not later than March 31 of each year and shall include the required information for the prior calendar year.
- (c) Amended Report. Every qualified public depository shall file with the Treasurer an amended annual report if it determines that any information included on the annual report is inaccurate or incomplete. The amended report shall be filed within fifteen (15) business days of the time the qualified public depository determines that the prior report was inaccurate or incomplete.

(4) Change of Name, Address, Charter of the Institution, or Ownership.

- (a) Report Contents. Every qualified public depository shall file with the Treasurer, on a form prescribed by him, a report of any change of name, address, charter or ownership of the institution.
- (b) When Due. The report shall be filed within three (3) business days of such change.

(5) Confidential Information. It shall be the responsibility of each qualified public depository from which information or reports is required to inform the Treasurer of information that is confidential. The Treasurer shall design report forms so that any information which is confidential may be placed on separate sheets; only information which is confidential by State or Federal law may be so designated.

Authority: T.C.A. §§9-4-508(7), 9-4-508(8), and 9-4-518(b). **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992. Amendment filed August 30, 1996; effective December 27, 1996. Amendment filed October 30, 2001; effective February 28, 2002.

1700-4-1-.08 REPORTS AND PROCEDURES FOR TRUSTEE CUSTODIANS.

- (1) **Appointment of Trustee Custodians.** Upon being designated as a qualified public depository, the qualified public depository shall appoint one or more trustee custodians from the deposit of eligible collateral by the qualified public depository. The appointment shall be made on a form provided by the Treasurer and shall be delivered to the Treasurer and accepted by him prior to the deposit of any collateral with the trustee custodian.
- (2) **Notification.** The Treasurer shall notify the qualified public depository of the acceptance or denial of any appointment of a trustee custodian.
- (3) **Report Contents.** Every trustee custodian shall submit a quarterly report to the Treasurer providing a description of eligible collateral securities deposited by the qualified public depository, including the par value of the eligible collateral, as well as other information requested by the Treasurer.
- (4) **When Due.** The trustee custodian shall file the report with the Treasurer on a schedule as established by the Treasurer. The report shall include information as of the end of the scheduled quarter.
- (5) **Amended Reports.** A trustee custodian shall submit to the Treasurer an amended report at any time that it determines the information on any prior report was incomplete or inaccurate. The amended report shall be filed not later than ten (10) business days after it determines that any prior report was inaccurate or incomplete.

Authority: T.C.A. §§9-4-505 and 9-4-508. **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992.

1700-4-1-.09 FEES.

- (1) **Application Fee.** The Board may establish an application fee which may include the cost of processing the application, or such other cost as the Board deems necessary or appropriate. The fee shall be submitted with the application. The Board may establish that all or a portion of the fee shall be refunded if the application is denied.
- (2) **Participation Fee.**
 - (a) **Calculation of Fees.** The Treasurer shall annually certify to the Board the estimated amount required to cover the expenses of operating the collateral pool for the year next following. On the basis of such certification, the qualified public depositories shall bear a percentage of such operating expense based upon the following schedule:
 1. If the qualified public depositories hold an aggregate of thirty percent (30%) or more of the sum total of deposits held in the State of Tennessee by banks and savings institutions, the percentage of the operating expense to be borne by the qualified public depositories shall be zero percent (0%).
 2. If the qualified public depositories hold an aggregate of less than thirty percent (30%) of the sum total of deposits held in the State of Tennessee by banks and savings institutions, the percentage of the operating expense to be borne by the qualified public depositories shall equal one hundred percent (100%).

The sum total of deposits held in the State of Tennessee by banks and savings institutions, and the sum total of such deposits held by the qualified public depositories shall be determined from the most recent quarterly report published by Sheshunoff Information Services, Inc.

(Rule 1700-4-1-.09, continued)

- (b) **Proration of Expense.** The percentage of the operating expenses to be borne by the qualified public depositories shall be prorated among the qualified public depositories and shall be assessed quarterly against all qualified public depositories participating during the quarter in the collateral pool. The assessment for each qualified public depository shall be determined by multiplying the amount of the operating expenses to be borne by the qualified public depositories by the percentage of public deposits in the collateral pool held by the qualified public depository.
- (c) **Payment of Fee.** The Treasurer shall notify each qualified public depository of the assessment as determined by the Board. The qualified public depository shall pay the fee within thirty (30) calendar days of the date of notice from the Treasurer.
- (d) **Increases in Fees.** Notwithstanding subparagraph (a) above, if the Board determines, upon the recommendation of the Treasurer, that the resources available to the collateral pool are insufficient to operate the collateral pool program, the Board may increase the percentage to be borne by the qualified public depositories.

Authority: T.C.A. §9-4-508. **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992. Amendment filed August 30, 1996; effective December 27, 1996.

1700-4-1.10 WITHDRAWAL FROM COLLATERAL POOL PARTICIPATION.

(1) **Voluntary Withdrawal.**

- (a) **Voluntary Withdrawal Generally.** A qualified public depository may withdraw from participation in the collateral pool by giving written notice to the State Treasurer, and to all public depositors having deposits at the qualified public depository. The notice shall provide an effective date of withdrawal which shall not be less than one hundred eighty (180) calendar days after the date the notice is received by the Treasurer.
- (b) **Contingent Liability of Withdrawing Qualified Public Depository.** A qualified public depository shall be contingently liable for any loss to the pool as provided in the contingent liability agreement. To assure that an institution can meet its contingent liability, an institution shall continue to maintain pledged collateral in an amount established by the Board.
- (c) **Reports.** The withdrawing qualified public depository shall continue to file monthly and annual reports with the Treasurer during the period in which the contingent liability agreement is in effect as well as the quarterly reports required under rule 1700-4-1-.07 unless the quarterly reports are suspended pursuant to subparagraph (2)(c) thereof.

(2) **Mandatory Withdrawal from Collateral Pool.**

- (a) **Mandatory Withdrawal Generally.** A qualified public depository shall be required to withdraw upon the vote of a majority of the Board as provided in T.C.A. § 9-4-517.
- (b) **Contingent Liability of Withdrawing Qualified Public Depository.** A qualified public depository shall be contingently liable for any loss to the pool as provided in the contingent liability agreement. To assure that an institution can meet its contingent liability, an institution shall continue to maintain pledged collateral in an amount established by the Board.
- (c) **Reports.** The withdrawing qualified public depository shall continue to file monthly and annual reports with the Treasurer during the period in which the contingent liability agreement is in effect as well as the quarterly reports required under rule 1700-4-1-.07 unless the quarterly reports are suspended pursuant to subparagraph (2)(c) thereof.

(Rule 1700-4-1.10, continued)

- (3) Appeal. Any qualified public depository subject to mandatory withdrawal may appeal the decision of the Board by following the appeal procedure in rule 1700-4-1.13.

Authority: T.C.A. §§9-4-508(7), 9-4-516, and 9-4-517(c). **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992. Amendment filed October 30, 2001; effective February 28, 2002.

1700-4-1.11 REPORTS BY PUBLIC DEPOSITORS.

- (1) Public Depositor Accounts. A public depositor shall insure that the name of the public depositor is on the account title, or certificate of deposit provided to the public depositor by the qualified public depository in a manner sufficient to disclose the identity of the public depositor.
- (2) Annual Report. Not later than March 31 of each year, each public depositor shall file an annual report with the Treasurer on a form prescribed by him. The form shall contain the official name, address, and Federal tax identification number of the public entity and shall contain such other information determined by the Treasurer as necessary to enforce these rules or the provisions of the Act. A public entity established during the year shall furnish its official name, address, and Federal tax identification number to the Treasurer prior to making any public deposit.

Authority: T.C.A. §§9-4-508 and 9-4-519. **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992.

1700-4-1.12 PAYMENT OF LOSSES.

- (1) Priority for Multiple Losses. In the event a default or insolvency occurs to more than one qualified public depository, claims of public depositors shall have priority based on the date of the default or insolvency. Claims arising from a default or insolvency occurring earliest in time shall have priority over claims arising subsequently.
- (2) Payment. The Treasurer shall establish the priority of claims arising from multiple defaults or insolvencies and pay public depositors based on the priority established.

Authority: T.C.A. §§9-4-508 and 9-4-512. **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992.

1700-4-1.13 APPEAL OF DECISIONS.

- (1) Admission and Collateral Pledge Level Determinations. An applicant or qualified public depository may appeal any final decision of the Board regarding its application for admission or collateral pledge level determination by filing written notice of appeal with the State Treasurer not later than thirty (30) calendar days after the final decision. An appeal of the Board decision shall be considered a contested case and shall follow the procedures for contested cases in T.C.A., Title 4, Chapter 5, Part 3.
- (2) Cease and Desist, Suspensions and Withdrawal Determinations. Prior to the issuance of a cease and desist, suspension or mandatory withdrawal order, the Board shall advise the public depository of the facts which warrant the intended action and of the depository's right to request, within thirty (30) calendar days of receipt of such advice, a contested case hearing to show why the intended action is not warranted. Provided, however, the Board may, prior to affording an opportunity for such hearing, issue a cease and desist order, suspend or require mandatory withdrawal of a public depository if the Board finds that the safety of public deposits imperatively requires such action and incorporates a finding to that effect in its order.

Authority: T.C.A. §§ -4-508 and 9-4-509. **Administrative History:** Original rule filed April 30, 1992; effective July 30, 1992.